IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

Crl.MC.No. 3075 of 2007()

ST.541/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, TRIVANDRUM

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PETITIONER: ACCUSED

G.S.DOGA, DIRECTOR (MARKETING)
G9, HIYAVAR JUNG MARG, BANDRA (EAST)
MUMBAI - 400 051.

BY ADV. SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR
SRI.K.JOHN MATHAI

RESPONDENTS: COMPLAINANT AND STATE

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1. LEDSON RAJ S.,
INSPECTOR LEGAL METROLOGY,
THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3075 of 2007

Dated this the 5th day of October 2007

O R D E R

The petitioner has received a summons from the Judicial First Class Magistrate Court-I, Thiruvananthapuram in a complaint filed by the first respondent herein wherein allegations are made for commission of the offence punishable under the Standards of Weights and Measures (Enforcement) Act 1985. According to the petitioner, he is at a loss to understand why he has been summoned. Copy of the complaint is produced as Annexure A. Accused 1 and 2 are named individuals. Accused No.3 is shown in the complaint as the Plant Manager of Indane Bottling Plant, Parippally. The petitioner is not that person. The fourth accused is the Indian Oil Corporation Ltd. The petitioner is not arrayed as an accused. The petitioner submits that his employer M/s.Indian Oil Corporation Ltd., shown as the fourth accused, is willing to appear before the learned Magistrate, in accordance with the procedure prescribed under Section 305 Cr.P.C. But the summons issued served on the petitioner is not one issued to the fourth accused, M/s.Indian Oil Corporation Ltd. the summons issued which is produced as Annexure B does not specify whether it is issued to the third accused or the fourth accused or any other accused. It would appear these from that the petitioner is the accused. That scares the petitioner and that is why he has come before this court.

2. The petitioner can certainly appear before the learned Magistrate through Pleader on 9/10/2007, the date on which his presence is required as per Annexure B summons. I have gone through Annexure B summons. It also shows that the petitioner can appear through Pleader or he can appear personally. He can bring to the notice of the court that he is not one among the four accused. The fourth accused, the employer of the petitioner can also offer to appear before the learned Magistrate on that day through the petitioner or any other official as the case may be, as permitted under Section 305 Cr.P.C. The petitioner's prayer that he is not an accused and should not be obliged to appear as an accused in the case must be considered by the learned Magistrate on 9/10/2007 when the plea is raised through the counsel for the petitioner. Appropriate orders must be passed by the learned Magistrate. I am satisfied that with the above observations, this Criminal Miscellaneous Case can be dismissed. Needless to say that the petitioner's option to challenge such order shall remain unfettered by the dismissal of this Criminal Miscellaneous Case.

3. This Criminal Miscellaneous Case is accordingly dismissed with the above specific observations.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007